

608 Rock Creek Church Rd, NW
Washington, DC 20010

7 May 2023

Board of Zoning Adjustment
441 4th Street, NW, Suite 200S
Washington, DC 20001

Letter in Opposition to BZA Case #20856 (451 Park Rd., NW)

Dear members of the Board

I am writing as a member of the community and the former twelve-year Advisory Neighborhood Commissioner who, until January 2, 2023, represented the Single Member District in which 451 Park Road is located. I urge the Board to deny this application outright. If the Board finds that it needs more information to make a conclusion, then I request that the Board continue the hearing until the neighbors residing on Square 3036 are properly noticed and given a chance to participate in this case.

I am making this request for the following reasons which I will address in turn:

1. The structure as proposed is strongly opposed by neighbors, a detail that the report from ANC1E omits;
2. Due to redistricting, the property at 451 Park Road is in one of the six (6) entirely new Advisory Neighborhood Commissions. Because of this, effective public notice has not occurred; and,
3. The proposed new accessory dwelling unit (ADU) that the project proposes is anything but an accessory building. Rather, it is a structure larger than the existing house. Approval would result in Square 3036, Lot 25 having two primary residential structures on the parcel. This is a gross violation of the RF-1 Zone.

1) Development is Opposed by Neighbors

If one is to believe the ANC1E report on this case, it appears that there are no known issues or concerns with this development. That is patently untrue. In the two years leading up to this development, I received many, many emails in my capacity as ANC from neighbors who strongly oppose this development (two letters attached). In

Board of Zoning Adjustment
District of Columbia
CASE NO.20856
EXHIBIT NO.25

addition to the neighbors directly behind 451 Park Road, the following neighbors are not in support:

- Keith Slade – 455 Park Road, NW
- Danielle Polen – 453 Park Road, NW
- Christopher Allison – 449 Park Road, NW

In fact, Christopher Allison is more impacted than most as his property shares the driveway with 451 Park Road. I have no doubt that he has not received notice at all as he is serving in Asia presently which has a significant time difference.

What's worse is that the owners and developer for this project absolutely refused to allow me, as the ANC, to participate in the conversations they scheduled with neighbors in 2021 & 2022 even though the neighbors repeatedly asked that I be allowed to attend. This is not the behavior of a trusted community partner.

I am including a letter that I was cc'd on from a Manor Place neighbor that was sent to ANC1E on this issue. You will note that this outreach was ignored by the Commission.

2) Redistricting has resulted in neighbors not being noticed.

For the twenty years before 2023, 451 Park Road was located in ANC1A, and Single Member District 1A08. For the past 12 years, I represented this area as its ANC. During the last redistricting, the connection with the Community and its ANC has broken and ANC1E has made insufficient effort to ensure that neighbors are aware of their meetings so they can participate.

Redistricting created six completely new ANCs. ANC1E is one of these. Many neighbors do not even know this has changed. Furthermore, ANC1E in an attempt to meet the legal requirement of notification publishes meeting details on their Website and has set up a email distribute group. Unfortunately, both methods initially rely on one point of contact, the ANC1E Website. Currently, the ANC1E distribution group has only about 156 unique individuals – out of a Commission area of 14,000 residents – on the list. In other words, the distribution list only goes out to 1.1% of the residents of ANC1E. The ANC made no attempt to flyer affected neighbors or undertake any other means to provide notice of their deliberations on 451 Park Road. Because of this, the Office of the Attorney General should examine whether or not ANC1E met its noticing requirements before their ANC report is given Great Weight.

Due to the flawed noticing of this controversial case, the matter should be returned to ANC1E for reconsideration. The ANC must inform its constituency and provide an honest opportunity for concerned residents to participate and be heard.

3) The proposed development is not an accessory building, but a primary structure

The definition of an accessory dwelling unit is as follows:

An accessory dwelling unit (ADU) is a legal and regulatory term for a secondary house or apartment that ***shares the building lot of a larger, primary home***. (emphasis added)

In reviewing the plans in Exhibits 11A1-11A3, what is proposed by this development clearly does not meet the definition of an accessory dwelling on a lot of a larger, primary home. Exhibit 11A1 states that the new building will be 1,752.979 sq. ft. of living space. The drawings at 11A2 and 11A3 also clearly show that the new structure will have four bedrooms. Exhibit 11A1 also states that the existing structure is 3,120.292 sq. ft. of living space . . . but this can only be true if it is including non-habitable spaces such as the basement and attic areas.

In looking at Redfin, 451 Park Road is listed as a 3-bedroom, 2-bath residence with 1,504 sq. ft. The DC Office of Tax and Revenue also lists the property as being a 3-bedroom, 2-bath residence of 1,504 sq. ft. of living space.

So, when looking at the true size of the existing structure and comparing it to the proposed structure, the new structure will be larger than the existing house by one bedroom and 248 sq. ft. of living space. Therefore, constructing the proposed building would result in two primary residential buildings occupying square 3036, lot 25.

Due to the inaccuracies of the applicants filing and failure of ANC1E to effectively notify their constituents, this application must be denied or returned to the ANC for an honest review.

Submitted most respectfully,

A handwritten signature in black ink, appearing to read 'K. Boese', with a stylized, cursive script.

Kent C. Boese

cc: 2 letters from residents
OTR Property Tax details

Good Day,

This letter is in opposition of the home owners to build a two-apartment structure in the backyard of 451 Park Rd NW.

While everyone seems to think DC has a housing issue. I say, "No way." The flare of the neighborhood has changed dramatically. It seems every time the neighborhood residents do not agree to changes the developer and city wins.

When will the historical aspect of the neighborhoods be a determining factor in the decision? How is it even possible to have privacy in your own backyard without someone looking. How much of the structure will block natural sunlight?

The owners are currently renting multiple rooms and spaces at the location. The basement was listed as an Airbnb.

I say make it a historical site along with the neighborhood.

Respecfully,

C Prince

434 Manor Place NW
Washington, DC 20010

Feb. 7, 2023

Advisory Neighborhood Commission 1E
Zoning and Economic Development committee

Re: BZA Case #20856, 451 Park Road NW

Dear commissioners:

A prior personal engagement precludes me from attending the Feb. 8 meeting of ANC1E's Zoning and Economic Development committee meeting, so I hope you will accept this written statement of opposition to the application for zoning relief at 451 Park Road NW.

The block bounded by Park Place, Park Road, Warder Street and Manor Place is a green refuge in this city: A rare patch of wooded backyard uninterrupted by an alley, and enjoyed by the many families and children whose lots form it. I reside opposite the subject property across the wooded interior of our block, about 120 feet across my neighbors' backyards.

The proposal to build a second building in the back yard of 451 Park Road NW contravenes the spirit and letter of the zoning code and would destroy the light, view and open air enjoyed by dozens of households privileged to share that space. The applicants for a period had a very noisy illegal short-term rental in their attic, so we on the block have already suffered their disregard for their neighbors and DC's zoning laws and know what's in store for us if they build another house on the back of their lot.

The application is so shot through with falsehood and obfuscation that the ANC and BZA can't even consider it on the merits. In particular, the application conceals that the applicants have already illegally subdivided the existing house into three units, without zoning permission. I urge you to reject the proposal and order the applicants to come back with a truthful application or not at all.

To start, the application describes the existing property as a single-family home. Yet soon after purchasing the property, Christopher and Hoa Bergerson converted the basement into a separate rental apartment, then built out the attic and turned that into the short-term rental whose parties kept me up at night. When they moved out, they began offering three units for rent. Real estate website Zillow shows separate listings [for a basement unit](#), [a 1,500 square-foot main unit](#), and a [780 square-foot top unit](#) listed under applicant Hoa Bergerson's name and active as recently as Feb. 7, 2023.

The application states the intended use is a "two family flat," while in truth they intend ultimately to enjoy rental income from four units. The DC code permits a maximum of two dwelling units in an RF-1 zoned property, and a review of Board of Zoning Adjustment cases indicates the applicants neither applied for nor received a special exception to put a third dwelling unit on the property. The proposed fourth unit

would also trigger the District of Columbia's inclusionary zoning requirements (11 DCMR Subtitle U § 320.2(b)).

A search of the Department of Buildings database shows no certificate of occupancy for the applicant address, [even though the department states](#) “no person can use a building, structure or land in the District of Columbia for any purpose other than a single-family dwelling, until a valid Certificate of Occupancy has been issued.”

The applicants may argue that they have returned the property to compliance in advance of the request for relief, but in the face of the evidence that had subdivided the house as well as their history of thumbing their noses at their neighbors and at DC's zoning rules, the ANC and BZA can't take their word for it.

I'm further concerned that the applicants haven't been honest about their communications with the neighbors. For one, the burden of proof statement says “Other neighbors did not express concern with the proposed windows to the north.” The owners of 442 Manor Place NW, Adam Paterson and Danielle Beck, have represented to me that they vehemently oppose this project and have had no communication with the Bergersons that could reasonably lead them to state Mr. Paterson and Ms. Beck are okay with the proposed windows. Another neighbor has represented to me that that neighbor has had multiple issues with the Bergersons' many renovations and that the Bergersons have been insufficiently communicative and responsive to their concerns.

Even if the BZA declines to throw out the application due to its incompleteness, lack of candor, and dishonesty, the proposal will fail on the merits.

The mere fact that the applicants seek relief from three zoning rules shows plainly their proposed accessory dwelling doesn't comport “with the general purpose and intent of the Zoning Regulations and Zoning Maps,” a standard for a special exception.

The applicants seek to build a second house that is bigger than the code allows on a part of the lot where the code doesn't permit it, and they want to be able to rent it out right away, instead of waiting five years as contemplated by the code. The proposed project will “affect adversely the use of neighboring property”, another standard, because it will have a two-storey building rising over the backyards at 442 and 444 Manor Place NW.

The applicants have a record of noncompliance with DC building codes: In June 2017 they were issued a stop-work order for illegal construction/working without a permit. I speculate the applicants subsequently used permit B1709975, issued the following month, as a cover to convert the attic into a separate rental unit.

Finally, the property has been nominated for a historic designation ([Case 22-11](#) in the Historic Preservation Review Board). I urge the ANC not to permit the applicants to develop the property and destroy Washington's priceless cultural patrimony.

I've had years of experience with BZA cases and I know the applicants will try to lawyer their way through this, then count on a sympathetic hearing from the BZA. But you, the ANC, represent us, and we plead with you to turn them down and tell them to return with an honest application that takes into account the neighbors' many concerns.

Sincerely,

/s/ Daniel Nasaw



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Property Details

SSL : 3036- -0025

[Make a Payment](#)Premise Address : 451 PARK RD NW WASHINGTON
DC 20010**Balance** :[Details](#)[Assessment](#)[Tax Information](#)[Features](#)[Map](#)[Applic](#)

Property Features

Building Type	: Semi-Detached	Fireplaces	: 0
Building Style	: 2 Story	Wall	: Common Brick
Year Built	: 1907	Floor	: Wood Floor
Gross Building Area	:	Heat	: Hot Water Rad
Living Area	: 1,504	Air Conditioning	: False
Bedrooms	: 3	Interior Condition	: Good
Bathrooms	: 2	Exterior Condition	: Good
Half Bathrooms	: 0	Overall Condition	: Good
Total Rooms	: 7		



